IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Hiroaki Yada, et al.
Serial No.	:	09/632,200
For	:	DISK DRIVE APPARATUS, VIDEO CAMERA APPARATUS, AND DATA PROCESSING METHOD FOR USE WITH DISK DRIVE APPARATUS
Filed	:	August 2, 2000
Examiner	:	Vent, Jamie J.
Art Unit	:	2621
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Name of Applicant, Assignee or Registered Representative

Signature

July 11, 2006

Date of Signature

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop Appeal Brief-Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1451

Sir:

Applicants request review of the Final Rejection dated May 16, 2006 in the above-captioned application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. Please consider the reasons stated herein.

REASONS FOR REQUEST

Claims 1, 3, 4, 5, 14, 15, 16 and 22 were rejected under 35 U.S.C. § 103(a) over Iso (U.S. Patent No. 5,612,933) in view of Chainer (U.S. Patent No. 6,075,668). Claims 8, 9, 10, 11, 12, 13, 19, 20 and 21 were rejected under 35 U.S.C. § 103(a) over Iso view of Chainer and further in view of Battaglia (U.S. Patent No. 6,658,202). Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) in view of Iso.

Applicants respectfully submit that (1) the applied combinations of Iso, Chainer, and Battaglia do not teach that **error processing** is performed dependent on the **time duration for error processing** as claimed in independent claims 1 and 22; (2) that the applied combinations teach away from the claimed invention; and (3) that the applied combinations are improper because they lack motivation and rely on impermissible hindsight. Furthermore, Applicants submit that the rejection of claims 17 and 18 is improper, since as dependent claims, they include the recitations of claims 1 and 16, the Office Action concedes Iso fails to disclose the features of claim 1.

1. Applied combination does not teach error processing dependent on the time duration

Claim 1 recites, *inter alia*:

> A disk drive apparatus containing a plurality of operation modes, comprising:
> ...
> a third mode having the first data rate and **error processing for a second data reliability dependent on the time duration for error processing**; and
>
> a fourth mode having the second data rate and **error handling for the second data reliability dependent on the time duration for error processing**,
> ...

wherein the first data reliability is higher than the second data reliability. (Emphasis Added)

The cited portions of Iso, Chainer, and Battaglia do not disclose or suggest that error processing is carried out dependent on the time duration for error processing in the third and fourth modes, as recited in claim 1. That is, the applied combination does not provide a mechanism for error handling time-out in the case of processing continuous real-time data (i.e., AV data). The Office Action concedes on page 3 that Iso "fails to specifically disclose that a mode having data rate and error processing for the data reliability dependent of time duration." The Office Action relies on Chainer (col. 10, lin. 1-54) for a teaching of this missing feature. Applicants respectfully submit that Column 10 of Chainer fails to teach the recited feature of claim 1. Column 10, and Chainer in general, deal with correcting random errors due to velocity jitter of a drive and the like by the placement of improved servo-patterns. That is, Chainer discloses a capability to reduce systematic errors in the writing of the timing patterns (see Col. 2, lines 38-50). There is no suggestion or motivation that **error processing** is carried out dependent on the **time duration for error processing**, as recited in claim 1.

2. Applied combination teaches away from the claimed invention

Applicants respectfully submit that Iso teaches away from error processing dependent on a time duration for error processing, as recited in claim 1 (see MPEP §2141.02). As understood by Applicants, **the apparatus disclosed in Iso continues to perform error processing, regardless of the time required.** More specifically, Iso performs "retry processing several times in the quadruple speed mode and if an error correction failure flag still persists, the reproduction mode is switched to the standard speed and the retry processing is carried out

again" (Iso col. 4, lin. 20-26, emphasis added). Additionally, "if the digital signal processing circuit finds an error uncorrectable, three retries, for instance, are carried out in the same quadruple speed mode. If the error is still uncorrectable, the reproduction operation is changed to standard speed mode. Then, the retry is carried out at the standard speed and if three retries fail to correct the error, a correction failure processing is done..." (Iso col. 9, lin. 30-42) This description clearly reveals that error processing is done a fixed number of times regardless of the time required. In contrast, claim 1 provides operation modes "with error handling **dependent on the time duration for error processing**" (emphasis added).

Additionally, Applicants respectfully submit that Figure 4 of Iso shows that the apparatus of Iso stops error processing after a fixed number of retries (i.e., four). Applicants respectfully submit that this teaches away from operation modes "with error handling dependent on the time duration for error processing," as recited in claim 1 (emphasis added).

3. Applied combination lacks motivation and relies on impermissible hindsight

Applicants respectfully submit that the Office Action has failed to provide a suggestion or motivation to combine the teachings of Iso and Chainer, and to further modify that combination using Battaglia (see MPEP §2143.01). The closest item to a motivation found in the Office Action on page 4 is: "The dependency on time allows for proper and efficient operations in various modes in relationship to timed data." However, Applicants respectfully submit that the motivation is not found anywhere in the art of record to suggest the applied combination. Since there is no motivation in the references themselves or by one of ordinary skill, the Office Action has relied on impermissible hindsight to create a mosaic of features from the prior art in a futile attempt to create a vague resemblance of Applicants' claimed invention.

Therefore, for at least the reasons stated above, Applicants respectfully submit that claim 1 is patentable.

For reasons similar, or somewhat similar, to those described above, independent claim 22 is also patentable.

The other claims in this application are each dependent from either claim 1 or claim 22, and are therefore patentable for at least the same reasons.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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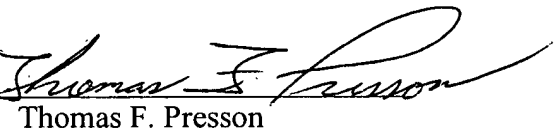
Attorneys for Applicants

By 
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